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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 ISSAC ABDI HASHI,

12 Petitioner,

13 vs.

14 MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security, et al.,

15 Respondent.

CASE NO. 07cv1789 WQH (JMA)

ORDER TO SHOW CAUSE AND
ORDER GRANTING MOTION TO
PROCEED IN FORMA PAUPERIS

16 HAYES, Judge:

17 Pending before the Court are Petitioner Issac Abdi Hashi's Petition for Writ of Habeas Corpus
18 pursuant to 28 U.S.C. § 2241 (Doc. #1) and motion to proceed in forma pauperis (Doc. #2). Petitioner
19 alleges that his continued and indefinite detention pursuant to 8 U.S.C. § 1231 is unlawful because
20 Petitioner has been detained beyond the presumptively reasonable period of six months and there is
21 no significant likelihood of his removal in the reasonably foreseeable future. *See Zadvydas v. Davis*,
22 533 U.S. 678 (2001).

23 **ORDER TO SHOW CAUSE**

24 Having reviewed Petitioner's claims, the Court finds that summary dismissal of the petition
25 is unwarranted at this time. *See Kourteva v. INS*, 151 F. Supp. 2d 1126, 1128 (N.D. Cal. 2001)
26 ("Summary dismissal is appropriate only where the allegations in the petition are vague or
27 conclusory, palpably incredible, or patently frivolous or false."). Accordingly, Respondents are
28 **ORDERED TO SHOW CAUSE** why the petition should not be granted by:

1 (1) filing a written return no later than **Friday, October 12, 2007.**

2 (2) filing copies of all documents, orders and transcripts relevant to the petition; and

3 (3) filing a memorandum of law and fact fully stating Respondents' position and making
4 a recommendation regarding the need for an evidentiary hearing on the petition.

5 If Petitioner wishes to reply to the return, he may do so by way of a traverse filed no later
6 than **Friday, November 9, 2007.**

7 **MOTION TO PROCEED IN FORMA PAUPERIS**

8 All parties instituting a habeas proceeding in a district court of the United States must pay
9 a filing fee of \$5.00. 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay
10 only if the party is granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).
11 *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). "To proceed in forma pauperis is a
12 privilege not a right." *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965).

13 In his accompanying affidavit, Petitioner states that he is presently incarcerated, not
14 employed, has no assets, and has less than one dollar in his prison trust account. After considering
15 Petitioner's motion and the accompanying affidavit, the Court determines that Petitioner cannot
16 afford to pay the filing fee in this case and is eligible to proceed in forma pauperis pursuant to 28
17 U.S.C. § 1915(a). The Court therefore **GRANTS** Plaintiff's motion to proceed (Doc. # 2) in forma
18 pauperis.

19 **CONCLUSION**

20 (1) Respondents are **ORDERED TO SHOW CAUSE** why Petitioner's petition should not
21 be granted, and shall respond to this Order as outlined above.

22 (2) Petitioner's motion to proceed in forma pauperis (Doc #2) is **GRANTED**.

23 **IT IS SO ORDERED.**

24 DATED: September 13, 2007

25 
26 **WILLIAM Q. HAYES**
27 United States District Judge
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